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Before the
Federal Communications Commission
Washington D.C., 20554

JUL 30 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Numbering Resource Optimization

)
) CC Docket No. 99-200
)
) RM No. 9258
)
) NSD File No. L-99-17
)
) NSD File No. L-99-36
)
) NSD File No. L-99-51

Comments of Mitretek Systems, Inc.

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Mitretek Systems, Inc. ("Mitretek") hereby submits these Comments in response to the Notice of Proposed Rulemaking, *In the Matter of Numbering Resource Optimization*, CC Docket No. 99-200, FCC 99-122 (Released June 2, 1999):

As the telecommunications technology, market conditions, and industry participants change and evolve, the administration of the public's numbering resource also must change and evolve. The North American Numbering Council (NANC), in its statement of the industry's numbering administration requirements,¹ recognized this need. The NANC was specific in stating that such future requirements² would be the responsibility of the North American Numbering Plan Administrator (NANPA). In assigning such future functions to the NANPA, the NANC understood that this assignment would ensure efficiency in the overall administration of the numbering resource, minimize Commission and NANC oversight workload, and allow the NANPA to develop, and be responsible, for integrated analysis approaches and solutions. The NANC did not intend that the assignment of future functions be a means to address performance problems of the NANPA.³

As the assignment of new numbering administration functions is considered, Mitretek urges the Commission to use again the NANC *NANP Requirements Document*, as well as other documents such as meeting minutes that clearly show the intent of the NANC and its work groups, as the basis of consideration. It is clear from the *NANP Requirements Document* and the supporting documents that some functions (e.g., advanced forecasting models and techniques,

¹ See *North American Numbering Plan (NANP) Administration Requirements Document*, [hereinafter *NANP Requirements Document*].

² *NANP Requirements Document* at Sections 1.5, 4.2.13, 10.

numbering utilization approaches and analysis, audit activities) currently under consideration were intended by the NANC to be performed by the NANPA.

If future functions are determined to be outside the intended scope of the NANPA's responsibility,⁴ Mitretek also urges to Commission to consider the model encapsulated in Table 1 of our 19 July 1999 letter⁵ (copy enclosed) filed in Docket 92-237. Specifically, the model assigns functions to one of two groups – public numbering administration functions delegated from the Commission are assigned to the NANPA; database look-up functions associated with call set-up are assigned to third-party participants in a potentially competitive marketplace. Functions in this second group currently include database look-up for the purpose of determining call routing across carrier networks and determining routing for calls to ported numbers. Future functions that possibly could be assigned to this second group include database look-ups to determine preferred inter-exchange carrier (PIC) and preferred local exchange carrier. The model recognizes the need to limit NANPA functions to a minimum set of functions delegated from the Commission to administer effectively the public numbering resource and, similarly, recognizes the need to encourage competition and minimize barriers to entry in a competitive market providing carrier call set-up and database support.

In summary, Mitretek urges the Commission to assign functions related to administration of the public numbering resource to the NANPA and to assign functions related to call set-up to

³ *NANP Requirements Document* at Sections 1.6, 1.7.

⁴ Given the broad scope statement provided by the NANC at *NANP Requirements Document* Sections 3 and 4, it is difficult to imagine any of the current functions being outside of the NANPA's scope.

participants in the competitive marketplace. Such action will ensure efficient and effective administration of the numbering resource, minimize those functions delegated through Commission rules to the NANPA, and encourage a competitive marketplace providing carriers with price and quality choices.

Respectfully submitted,



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Dated: July 30, 1999

⁵ Letter of H. Gilbert Miller to The Honorable William E. Kennard, 19 July 1999 in CC Docket No. 92-237, NSD File 98-151.

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19 July 1999
Q010-L-28

The Honorable William E. Kennard
Chairman
Federal Communications Commission
445 12th Street, SW
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Dear Mr. Kennard:

For the last seven months, the Commission has considered the requested transfer of the North American Numbering Plan Administrator (NANPA). Simultaneously, the Commission has considered the transfer of the Local Number Portability Administrator (LNPA) functions. In contradiction to the statutory and regulatory independence of the NANPA and LNPA functions, and in response to the insistence of the current incumbent, the Commission appears to be considering a change in policy such that these two functions must be transferred to the same entity.

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During this same period, the Commission, with and through its advisory group the North American Numbering Council (NANC), has considered the implementation of additional functions (e.g., enhanced central office code utilization survey, thousand block pooling) to increase the efficiency of the North American Numbering Plan (NANP) resource. Again, in contradiction of the regulatory history of the NANPA and in reaction to recent performance issues related to the current incumbent, the Commission and the NANC appear to be embarking on a path to separate functions that were centralized under the NANPA as a result of rulemaking resulting from FCC Docket 92-237.

With respect to these matters, Mitretek urges the Commission to:

1. **Consider any transfer actions affecting the NANPA and the LNPA separately and independently.** Failure to consider separately and independently actions affecting these two functions, which have different and unique statutory origins and regulatory obligations, will result in a loss of NANPA efficiency, a loss of flexibility in dealing with both functions, and a loss of future competition in the LNPA environment. Failure of the Commission to consider separately and independently actions affecting these two functions will result in a formalization of a horizontal monopoly in the LNPA and vertical monopoly with respect to the LNPA and the NANPA.

2. Avoid distributing recognized and inherent NANPA functions to new entities. Fragmentation of NANPA functions to multiple entities will result in a considerable loss of NANPA efficiency and the ability to deal with substantive issues on a whole and complete basis during a time when NANP exhaust is critical.
3. Open all meetings of the NANC and allow participation in NANC working groups by all members of industry and the public. Since all intellectual property of the NANPA is owned by the Commission, and if the Commission enforces its current policy of considering the LNPA and the NANPA separately, claims of company proprietary data and trade secrets are void. Furthermore, participation of all entities in NANC work groups will allow consideration and hearing of ideas.

Discussion

1. Consider any transfer actions affecting the NANPA and the LNPA separately and independently.

For the last seven months, the Commission has considered the requested transfer of the North American Numbering Plan Administrator (NANPA) and the Local Number Portability Administrator (LNPA) functions. The Commission appears to be willing to require the transfer of these two functions to the same organizational entity simply because the current incumbent has formulated a sale of these two functions to one entity and claims not to be willing to transfer these two functions other than to one entity.

This proposed Commission action will be in contradiction to the statutory and regulatory independence of the NANPA and LNPA.^{1,2,3,4} Clearly, the Commission has recognized previously that the NANPA and LNPA functions have different and unique statutory origins and regulatory obligations. The NANPA must administer a critical public resource to ensure the availability of numbering resources, but also must anticipate the range of unique circumstances across the country and respond efficiently, effectively, and fairly to these circumstances. In contrast, the LNPA administrators must provide call set-up-related, database look-up services that allow consumers to move from one carrier to another. A summary of NANPA and LNPA functions, as well as associated requirements, is provided in the enclosed Table 1.

¹ NANPA statutory authority originates with U.S.C. § 251(e)

² Commission consideration of NANPA changes originated and continues to be in FCC Docket 92-237, for NANPA selection see *In re: Administration of the North American Numbering Plan, Toll Free Service Access Codes, Third Report and Order*, 12 FCC RCD 23014, (October 9, 1997) [hereinafter *Third Report and Order*], which named Lockheed Martin as the NANPA and Mitretek as the Alternate NANPA

³ LNPA statutory authority originates with U.S.C. § 251(b)

⁴ Commission consideration of LNPA is in FCC Docket 95-116; for LNPA selection see *In re: Telephone Number Portability, Second Report and Order*, FCC 97-289 (August 18, 1997) [hereinafter *Second LNP Order*]

Previously, the Commission recognized the benefits of multiple entities performing the LNPA function.⁵ The Commission and industry recognized the appropriateness and benefits the NANPA and LNPA functions being distributed across different organizations.⁶ The data used by the NANPA and LNPA will clearly overlap in some cases. However, as indicated in the enclosed Table 1, the data will be used for significantly different functions and have significantly different performance, reliability, and aggregation requirements. Furthermore, the use of available information and computer technologies invalidates any claim of database system efficiencies. These databases are simply not large enough to be a factor to integrate the NANPA and LNPA functions.

Allowing the NANPA and LNPA functions to be combined will result in a loss of NANPA efficiency due to the needless integration of NANPA and LNPA computer systems, later inability to quickly adapt overly complex systems to new NANPA functions, and the continuing consideration of the impact on LNPA when NANPA evolution and adaptation are required. Allowing the NANPA and LNPA functions to be linked will deny carriers the future choice of which service provider to use for LNPA and similar database look-up functions. Similar to today's environment in which carriers use service providers other than the LNPA incumbent for database look-up related to call set-up and call routing, it is possible, likely, and even desirable that other such database look-up service providers may wish to compete to provide look-up services for ported numbers. A Commission decision to link the NANPA and LNPA functions will insert a barrier to entry into a market that, in the future, could have multiple competitors. The Commission's failure to consider separately and independently actions affecting these two functions will result in a formalization of the horizontal monopoly and the vertical monopoly existing in the LNPA and NANPA environments, respectively. With respect to this circumstance, the Commission has stated, "We recognize that vendor diversity for number administration services has advantages for the industry because it prevents the industry from being captive to a single, monopolistic provider for these services."⁷

2. Avoid distributing recognized and inherent NANPA functions to new entities.

The Commission, through its NANC advisory group, is considering how to implement additional and evolving functions that were intended to be assigned to the NANPA.⁸ These additional and evolving functions include, for example, enhanced COCUS, audit activities, thousand block pooling, and other related NANPA functions.⁹ However, the 1997 Requirements Document was explicit and clear that future functions such as these

⁵ *Second LNP Order* at paragraph 38

⁶ *Third Report and Order* at paragraphs 23 and 50

⁷ *Third Report and Order* at paragraph 66

⁸ See *North American Numbering Plan (NANP) Administration Requirements Document*, [hereinafter *NANP Requirements Document*] at Section 1.5

⁹ See *North American Numbering Council Meeting Minutes*, May 25-26, 1999. See also *FCC Announces the Next Meeting of the North American Numbering Council*, Public Notice DA991319, July 2, 1999

would be the responsibility of the NANPA.^{10,11} Considerable efficiency will be lost if these functions are segregated by distributing them across multiple organizations. In addition to increased NANC and Commission oversight workload, the segregation of functions will not allow one organization to see across all of the NANP issues, to develop integrated analysis approaches and solutions, and to be accountable for the actions that take place. The segregation of these functions should not be a solution to current performance problems of the incumbent, or any future, NANPA.

3. Open all meetings of the NANC and allow participation in NANC working groups by all members of industry and the public.

At a time when critical NANP exhaust issues and possible assignment of additional functions to the current incumbent are being considered, it is imperative that the spirit and letter of the Federal Advisory Council Act be followed. Specifically, all meetings, deliberations, and working groups of the NANC should be open for attendance and participation by all parts of the industry and the public. A portion of the July 20-21, 1999, NANC meeting has been "determined" to be closed on the basis that a proposal by the incumbent to provide number pooling administration is likely to involve disclosure of "trade secrets" and commercial or financial information obtained from a person and privileged or confidential.¹² Since all intellectual property of the NANPA is owned by the Commission, and if the Commission enforces its current policy of considering the LNPA and the NANPA separately, claims of company proprietary data and trade secrets are void. NANC requests to close their meetings, and NANC decisions to not allow participation in NANC working groups should be appropriately documented in substance, not just form.

Summary

Numbering administration is at a critical juncture. As the Commission has recognized, the exhaustion of the NANP has fostered controversy and fear by local officials, consumers, and carriers. The splitting of area codes has, in many cases, generated conflict and contempt for the process. During this time the incumbent NANPA, having acknowledged its own inability to meet the Commission's and the industry's neutrality requirements, continues to expend its energies and resources to find a purchaser, a process that is counter to the default process defined by the Commission in its *Third Report and Order*.¹³ As a purchaser that meets the Commission's and industry's

¹⁰ NANP Requirements Document at Sections 1.5, 4.2.13, 10

¹¹ See Mitretek's 1997 NANPA Proposal, including 1997 Proposal- Proposal Details and 1997 Proposal- Answers to Written Questions (available at <http://www.mitretek.org/nanpa/nanpa.html>). Regarding forecasting, see 1997 Proposal- Proposal Details at pages 7-8, 18-19, 259, 327-328 and 1997 Proposal- Answers to Written Questions at pages 15-19, 51-64, 62-67. Regarding COCUS, see activity see 1997 Proposal- Proposal Details at 123, 249, 284, 287 - 289, 376, 379 - 380. Regarding audit activity see 1997 Proposal- Proposal Details at 134, 140, 146, 157, 162.

¹² See FCC Announces the Next Meeting of the North American Numbering Council, Public Notice DA991319, July 2, 1999

¹³ Third Report and Order at paragraph 67

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requirements continues to be sought, the incumbent continues in its path to acquire COMSAT and become a carrier, a process initiated prior to the Commission's *Third Report and Order* naming the current NANPA.¹⁴ Valuable Commission and NANC time resources are used to consider a transfer request that is first submitted, then withdrawn.¹⁵ Meanwhile, the NANC, displeased with the performance of the incumbent NANPA,¹⁶ considers distributing inherently NANPA functions to unknown and new bidders.

Mitretek urges the Commission to act and bring stability and fairness to number administration. We urge the Commission to enforce existing rules of NANPA neutrality, not allow the NANPA and LNPA functions to be bound together by the current incumbent, address issues of incumbent performance directly as opposed to seeking to distribute inherently NANPA functions beyond the NANPA, and open all proceedings of the NANC.

Sincerely,



H. Gilbert Miller

HGM:lc

cc: Commissioner Susan Ness
Commissioner Harold Furchtgott-Roth
Commissioner Michael Powell
Commissioner Gloria Tristani

¹⁴ Proxy Statement at 19. See <http://www.sec.gov/Archives/edgar/data/936468/0000928385-99-001843.txt>

¹⁵ Letter of Cheryl Tritt to Ms. Magalie Roman Salas, July 1, 1999. ("The parties also wish to inform the Commission that CIS Acquisition Corporation terminated the December 15, 1988 Transaction Agreement on July 1, 1999.")

¹⁶ See *North American Numbering Council Meeting Minutes*, April 21-22, 1999 ("The [NANPA Oversight Working Group] also recommended that NANPA correct the issues presented in the report. . . . The [NANPA Oversight Working Group] will monitor corrective actions and will report back to Council.")

Table 1
Comparison of NANPA and LNPA Functions and Requirements

	NANPA	LNPA
Function	Administration, allocation, and analysis of public number resource	Database look-up in series with carrier switches performing call set-up
Sensitivity of data	Proprietary and sensitive strategic carrier information	List of numbers provided by NANPA and carriers
Execution horizon	Hours/days	Seconds and less
Performance	Administrative and planning functions independent of other systems	Performance critical and vital to call set-up; required for carriers to complete call set-up
Reliability	System and function required during normal business hours	High availability application requiring 24x7
Impact of loss of functionality	Unable to allocate block of numbers to carriers	Uncompleted calls and lost carrier revenue
Data aggregation	Blocks of ten thousand or thousands of numbers	Routing data on an individual number basis

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of July 1999, I caused the required copies of the foregoing Comment to be served via hand delivery to the Commission's mailroom on the following:

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A handwritten signature in black ink, appearing to read "Sung Lee". The signature is fluid and cursive, with the first name "Sung" and last name "Lee" clearly distinguishable.